

Honorable Lauren King

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ARGONAUT INSURANCE COMPANY,

Plaintiff,

v.

TRAVELERS CASUALTY AND SURETY
COMPANY,

Defendant.

NO. 2:22-cv-01036-LK

SECOND AMENDED COMPLAINT

Argonaut Insurance Company alleges as follows:

I. INTRODUCTION

1.1. This is an action seeking damages arising out of the failure of defendant Travelers Casualty and Surety Company to defend and indemnify the University of Washington (UW) for alleged liability arising out of environmental property damage as required under 18 insurance policies issued to UW.

II. PARTIES

2.1. **Argonaut Insurance Company.** Plaintiff Argonaut Insurance Company (“Argonaut”) is a corporation organized under Illinois law with its principal place of business in Chicago, Illinois.

2.2. **Travelers Casualty and Surety Company.** Defendant Travelers Casualty and Surety Company (“Travelers”) is a corporation organized under Connecticut law with its principal place of business in Hartford, Connecticut. During all times relevant to this Complaint, Travelers was licensed to sell insurance and transacted business in the State of Washington.

III. JURISDICTION AND VENUE

3.1. **Personal Jurisdiction.** This Court has personal jurisdiction over the parties.

3.2. **Subject Matter Jurisdiction.** This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a). There is complete diversity of citizenship between the parties, and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

3.3. **Venue.** Venue is proper pursuant to 28 U.S.C. § 1391(b) because this is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred and because the defendant transacts business in King County, Washington.

IV. FACTS

A. The Policies

4.1. Argonaut issued a commercial general liability policy to the University of Washington (UW), effective November 17, 1971 through November 17, 1972, which was then extended to expire on July 1, 1973 (“Argonaut Policy”).

4.2. This is the only liability policy Argonaut issued to UW during the period 1959 to 1978. Argonaut did not issue any excess or umbrella liability policies to UW during this time period.

4.3. The Argonaut Policy has a \$1 million per occurrence limit. Thus, the total per occurrence limits of insurance issued by Argonaut to UW during the 1959 through 1978 time period is only \$1 million.

1 4.4. Travelers issued a series of commercial general liability policies to UW beginning
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3 in 1959 and continuing through 1978.
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5 4.5. Except for the 20-month period during which UW was insured under the
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7 Argonaut Policy, Travelers insured UW under commercial general liability policies continuously
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9 for 18 years, from 1959 through 1978.
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11 4.6. From 1959 until 1962, the per occurrence limits on the policies issued by
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13 Travelers were \$500,000. In 1962, the per occurrence limit increased to \$1 million. The policies
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15 were renewed annually.
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17 4.7. The total per occurrence limits of insurance issued by Travelers to UW during the
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19 1959 through 1978 time period is \$16 million, or sixteen times the amount of the Argonaut per
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21 occurrence limit.
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23 **B. The Underlying Claims**

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25 4.8. The University of Washington has made claims to Argonaut seeking coverage for,
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27 or providing notice of, potential liability arising out of alleged environmental property damage at
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29 least 32 sites in the Seattle-metropolitan area (“UW Claims”).
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31 4.9. Certain of the UW Claims were also tendered to Travelers. On information and
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33 belief, these claims include, but are not limited to, claims arising out of alleged liability for
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35 environmental property damage at the following sites:
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- 37 • Boat Street Marina (1303, 1401, 1409 Boat Street, Seattle, Washington);
- 38 • Bridges at 11th Ave. NE/University of Washington/Children’s Housing
- 39 Project/Safeco Surface Lot #1 (4513 – 4557 11th Ave. NE, Seattle, Washington);
- 40 • Bothell Campus North Garage/Phase 3 (18500 Campus Way NE, Bothell,
- 41 Washington);
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- Triangle Property (11011 NE Campus Parkway, between Corry's Fine Dry Cleaning and Maple-Terry Hall, Seattle, Washington);
- Southwest Campus (formerly BioEngineers/West Campus Garage) (Seattle, Washington);
- Maple-Terry Hall/Terry Lander Hall (1035, 1045, 1101, 1135, 1201 and 1245 NE Campus Parkway, Seattle, Washington); Burke Gilman Trail (3925 Adams Lane, NE Boat St., Seattle, Washington);
- Tacoma Howe (Tacoma, Washington);
- Tacoma Prairie Line Trail (Tacoma, Washington);
- Bryant Building (1101-1137 NE Boat St., Seattle, Washington);
- Timmerman Marina (1101 NE Boat St., Seattle, Washington);
- University Power Plant Drywell (Mason Road & Jefferson Road NE, Seattle, Washington);
- Tacoma TCE Plume (Tacoma, Washington);
- Tacoma Remediation (Tacoma, Washington);
- Jefferson Building (91742 Jefferson St., Tacoma, Washington);
- Joy Building (1716 – 1730 Pacific Ave., Tacoma, Washington);
- Shaub-Ellison (Tacoma, Washington);
- Tacoma Y Student Center (1710 and 1726 Market St., Tacoma, Washington);
- Old Spaghetti Factory (Tacoma, Washington);
- Tacoma-McDonald Smith Building (1932 – 1936 Pacific Ave., Tacoma, Washington);

- Tioga Building (1907 Jefferson Avenue, Tacoma, Washington);
- Upton (Tacoma, Washington);
- Montlake Hot Spots (Seattle, Washington);
- El Waterline Replacement (Seattle, Washington);
- Mercer Hall (29W, Seattle, Washington);
- ICA Ballpark (Seattle, Washington);
- ICA Track (Seattle, Washington);
- ICA Soccer Field (Seattle, Washington);
- ICA Basketball Operations Building (Seattle, Washington);
- Animal Research and Care Facility (Seattle, Washington);
- University of Washington Police Department (3939 15th Avenue Northeast, Seattle, Washington); and
- West Campus Utility Plant (3900 University Way Northeast, Seattle, Washington).

4.10. Travelers denied coverage for numerous UW Claims and/or asserted that its obligations with respect to numerous UW Claims were limited and/or satisfied.

4.11. Travelers relied, at least in part, on a 1999 Settlement Agreement and Amendment(s) thereto.

4.12. To date, Argonaut has paid or agreed to pay approximately \$9.5 million in claim expenses, inclusive of defense costs and settlement amounts, on behalf of UW in response to the UW Claims.

1 4.13. Argonaut continues to pay defense costs on behalf of UW and expects to make
2 additional indemnity-type payments to protect its insured.
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5 4.14. Travelers has not paid any claim expenses, either defense or indemnity costs, with
6 respect to the UW Claims.
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9 **V. CAUSE OF ACTION:**
10 **EQUITABLE CONTRIBUTION AND/OR EQUITABLE INDEMNITY**
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12 5.1. Argonaut incorporates the allegations of paragraphs 1.1 through 4.14 above.
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14 5.2. Travelers wrongfully refuses to contribute to, or reimburse Argonaut for, defense
15 and indemnity claim expenses paid by Argonaut related to the UW Claims.
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18 5.3. As a direct and proximate cause of Travelers' actions, Argonaut is entitled to
19 recover damages in equitable contribution and/or equitable indemnity for the amounts that
20 Travelers has wrongfully refused to contribute to, or reimburse Argonaut for, related to the
21 defense and indemnity claim expenses paid by Argonaut in response to the UW Claims.
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26 **VI. PRAYER FOR RELIEF**
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28 WHEREFORE, Argonaut prays for the following relief:
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30 6.1. Money damages in an amount to be determined at trial;
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32 6.2. Pre- and post-judgment interest at the highest allowable rate;
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34 6.3. Reasonable attorneys' fees and costs;
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36 6.4. Such other and further relief as this Court deems just and proper; and
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38 6.5. All further relief to which plaintiff may be entitled at law or in equity.
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1 DATED this 7th day of September, 2022.

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17 DATED this 7th day of September, 2022.

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